

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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K. Jeffrey de Hart

Appl No. : 10/723,817 Confirmation No. 8001
Applicant : Sadinsky, Steven E.
Filed : November 25, 2003
Title : TENSIONED PROTECTIVE FENCE WITH GATE AND METHOD OF
INSTALLATION THEREOF
TC/A.U. : 3679
Examiner : Michael P. Ferguson
Docket No. : 50833/G316
Customer No. : 23363

DECLARATION OF STEVEN E. SADINSKY UNDER 37 CFR § 132

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
August 5, 2008

Commissioner:

I, Steven E. Sadinsky, declare and state as follows:

1. I am the president of Guardian Pool Fence Systems, Inc. ("Guardian").
2. Guardian is in the business of manufacturing and distributing gated pool fences. Guardian's gated pool fences have been installed for at least the last ten (10) years and are distributed nationwide by a network of dealers. I have been intimately involved with all aspects of the business, including the installation process of Guardian and competitive pool fences.
3. I believe that I am the original, sole inventor of the subject matter described and claimed in the above-identified application.

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4. I invented a lightweight fence and gate for swimming pools surrounded by a deck, the lightweight fence and gate comprising a plurality of poles, the poles including an insert contained within each pole and a pin fixedly attached to each insert, the pin protruding from the bottom of each pole and having a smaller diameter than a diameter of the pole. The gate includes a pair of upright support members and one pole attached to each of the upright support members.

5. I am familiar with previous pool fence designs that incorporate fence poles having a steel pin mounted to a lower end of the fence pole, the steel pin being of a smaller diameter than the fence pole. Because of the smaller diameter pins, holes in a pool deck configured to receive the pins could be made less noticeable. However, in these previous pool fence designs, the fence poles mounted with pins were not used at or near the gate structure because of a perceived need to provide a more stable, rigid structure at and near the gate. Such a perception was created by the instability and breakage of poles with pins used in the fence not near the gate, such poles being subject to less tension than poles near the gate. Accordingly, in previous pool fence designs, for poles at or near the gate, the poles themselves were inserted into holes in the pool deck, the poles having a wider diameter and no pins, to provide increased stability.

6. The lightweight fence and gate I invented uses poles having smaller diameter pins at the lower ends of the poles at or near the gate, contrary to the previous perception and thus practice that such poles and pins could not be used at or near a pool fence gate. Indeed, due to the perceived need for additional stability, it would have been counterintuitive to provide a smaller diameter pin at or near the gate. As such, in my opinion, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to provide fence poles with smaller diameter pins mounted to a lower end of each pole at or near a gate for the fence.

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7. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 8-5-08

By: Steven E. Sadinsky
Steven E. Sadinsky

OSB/kjd
KJD PAS804353.1-08/5/08 11:16 AM